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FROM LOS DEL

E.O. 11652: XGDS-3

TAGS: PLOS

SUBJECT: LOS: US-USSR BILATERAL AUGUST 20 AND 24 TO DISCUSS
OUTSTANDING ISSUES

1. TWO DAYS OF BILATERAL MEETINGS WITH THE SOVIET UNION WERE CHARACTERIZED BY THEIR VERY TOUGH STANCE WITH VERY POINTED PROBING OF PERCEIVED WEAKNESSES IN OUR POSITION. IT WAS CLEAR THAT THE THREE MAJOR ISSUES THAT ARE OUTSTANDING BETWEEN US ARE QUOTAS REGARDING DEEP SEABED MINING, SCIENTIFIC RESEARCH AND ANADROMOUS SPECIES OF FISH. IN ADDITION, THERE WERE 5 ISSUES IDENTIFIED WHICH NEEDED FURTHER DISCUSSION AT THE EXPERT LEVEL, I.E., THE COUNCIL OF THE INTERNATIONAL SEABED AUTHORITY, THE DEEP SEABED TRIBUNAL, EXEMPTING DELIMITATION DISPUTES FROM CDS, THE DELIMITATION OF THE OUTER EDGE OF THE CONTINENTAL SHELF, AND COASTAL STATE STAN-

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DARD SETTING REGARDING VESSEL SOURCE POLLUTION IN THE

TERRITORIAL SEA.

2. MAJOR OUTSTANDING ISSUES

A. DEEP SEABED MINING-QUOTAS: BOTH SIDES

AGREED THAT THIS ISSUE CONTINUES TO BE AN OUTSTANDING ISSUE AND NO SUBSTANTIAL DISCUSSIONS WERE NECESSARY AT THIS TIME.

B. SCIENTIFIC RESEARCH: ON AUGUST 23, IN

THE GENERAL COMMITTEE THE SOVIETS INDICATED THAT THEY COULD ACCEPT A TOTAL UNQUALIFIED CONSENT REGIME FOR RESEARCH IN THE ECONOMIC ZONE. THE US STRESSED THE IMPORTANCE THAT EACH OF US PROTECT OUR RESPECTIVE POSITIONS AND NOT CONCEDE THE OTHERS' POSITION. WE FURTHER UNDERSTOOD THAT THE USSR HAS NO SUBSTANTIVE DIFFICULTIES WITH THE US AMENDMENTS. THE SOVIETS REPEATEDLY SAID THAT THEY UNDERSTOOD THAT ARTICLE 60, PARAGRAPH 1 IS ACCEPTABLE TO THE UNITED STATES. THE US INDICATED THAT WAS NOT SO IN THE STRONGEST OF TERMS.

C. ANADROMOUS SPECIES: THE USSR

STRONGLY ADVOCATED AMENDING THIS ARTICLE ALONG THE LINES EMBODIED IN THE US FISHERY LEGISLATION, I.E., GREATER EMPHASIS ON COASTAL STATE CONTROL AND PRESSED US TO EXERCISE OUR INFLUENCE WITH OTHER STATES WHICH CO-AUTHORED THIS ARTICLE. THE US STRESSED THAT THE ARTICLE IS A PRODUCT OF NEGOTIATIONS AND WAS THE ONLY BASIS FOR AGREEMENT ON SPECIAL TREATMENT FOR ANADROMOUS SPECIES. IN US VIEW, IF WE ATTEMPT TO CHANGE THE ARTICLE, SPECIAL TREATMENT MIGHT BE LOST. AT THE SAME TIME, THE US INDICATED A WILLINGNESS TO CONSIDER AMENDMENTS BUT ONLY IF THE OTHER INTERESTED STATES, E.G., CANADA, ICELAND, IRELAND, JAPAN AND DENMARK WERE WILLING TO REOPEN THE ARTICLE. THE US AND USSR WILL DISCUSS THIS ISSUE FURTHER DURING WEEK OF AUGUST 23.

3. ISSUES FOR DISCUSSION AT EXPERT LEVEL

A. THE COUNCIL: IF THE EASTERN EUROPEAN

BLOC IS ALLOTTED FIVE SEATS ON THE COUNCIL, USSR COULD ACCEPT OUR COUNCIL PROPOSAL AS IT RELATES TO
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MEMBERSHIP. HOWEVER, THEY INDICATED THEY WOULD NOT WITHDRAW THEIR PROPOSAL. THUS, IF THE US PROPOSAL GAINED MAJORITY SUPPORT IN THE CONFERENCE THEY COULD ACCEPT THAT RESULT. THEY INDICATED, HOWEVER, THAT THEY WOULD NOT SUPPORT US OR ARGUE AGAINST US WITH RESPECT TO OUR VOTING PROPOSAL. THEY ARE NOT PREPARED AT THIS TIME TO DISCUSS OUR PROPOSAL. BOTH SIDES AGREED THAT A GROUP OF US-USSR EXPERTS WOULD STUDY

THE US PROPOSAL.

B. SEABED TRIBUNAL: THE USSR NOTED THEIR HISTORIC OPPOSITION TO INTERNATIONAL TRIBUNALS AND THAT THEY COULD ONLY ACCEPT A DEEP SEABED TRIBUNAL WHICH HAD SPECIAL CHAMBERS. THEY BELIEVED THAT THE TIME DELAY WHICH THE US FEARED IN APPOINTING JUDGES TO SPECIAL CHAMBERS COULD BE REDUCED. EXPERT LEVEL MEETINGS OF TWO DELEGATIONS WILL MEET THIS WEEK TO FIND A MUTUALLY ACCEPTABLE COMPROMISE. (THE US POSITION ON A UNIFIED TRIBUNAL WOULD NOT PRECLUDE A PROVISION WHEREBY IN STATE TO STATE DISPUTES ADJUDICATION COULD TAKE PLACE UNDER E.G., BINDING ARBITRATION).

C. COMPULSORY SETTLEMENT OF DISPUTES: THE SOVIETS WERE ADAMANT IN THEIR OPPOSITION TO THIRD PARTY SETTLEMENT OF ANY DELIMITATION DISPUTES (ARTICLE 81, PARA 2A OF PART IV). THEY MADE IT ABUNDANTLY CLEAR THAT IF DELIMITATION WERE NOT EXEMPTED FROM DISPUTE SETTLEMENT THEY WOULD OPPOSE CDS AND SUPPORT AN OPTIONAL PROTOCOL INSTEAD. THEY EMPHASIZED THAT IF THERE WERE NO COMPROMISE IT MIGHT BE EASIER TO CONCLUDE A CONVENTION BECAUSE ONLY THREE PARTS HAD TO BE NEGOTIATED, NOR FOUR. THE US ON THE OTHER HAND STATED THAT ARTICLE 18, 2A WAS A COMPROMISE AND THAT THE SUBSTANCE OF THE TREATY REVOLVED AROUND CDS.

D. CONTINENTAL SHELF DELIMITATION: THE USSR INDICATED PROBLEMS AND OPPOSITION TO THE DEPTH OF SEDIMENT TEST OF THE IRISH PROPOSAL(ART. 64), ALTHOUGH THEY COULD ACCEPT THE BASE OF THE SLOPE PLUS 60 MILES CRITERIA. THE US INDICATED ITS SUPPORT FOR THE IRISH FORMULA IN ORDER TO ACCOMMODATE THE CONCERNS OF OTHERS AND THAT WE WOULD LET THE CONFERENCE DECIDE ON THE APPROPRIATE FORMULA BEYOND 200 MILES.

E. MARINE POLLUTION: BOTH SIDES AGREED

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THAT THE EXPERTS WOULD CONTINUE TO CONSULT IN COMMITTEE III ON THE COASTAL STATE RIGHT TO SET VESSEL POLLUTION STANDARDS IN THE TERRITORIAL SEA. FURTHERMORE, BOTH AGREED ON THE NEED TO TALK TO SPAIN AND MALAYSIA ON STRAITS EXEMPTION IN THE MARINE POLLUTION CHAPTER.

4. OTHER ISSUES DISCUSSED

A. HIGH SEAS STATUS OF ECONOMIC ZONE: THE US STRESSED THE IMPORTANCE OF MAINTAINING THE GROUP OF 5 POSITION AND THAT WE SHOULD SIM TO ACHIEVE AGREEMENT ON THE AUSTRALIAN PROPOSAL OF THE LAST SESSION. THE USSR, WHILE AGREEING TO THE US APPROACH, SHOWED NO ENTHUSIASM AND RAISED IN OUR MINDS SOME QUESTION ABOUT THEIR DEDICATION TO

ACHIEVING A RELATIVELY UNAMBIGUOUS SOLUTION TO THIS PROBLEM.

B. PROVISIONAL APPLICATION: THE SOVIETS

STATED THAT IF THE CONTENT OF THE CONVENTION WERE ACCEPTABLE THEY COULD ACCEPT PROVISIONAL APPLICATION OF THE ENTIRE CONVENTION.

C. ARCHIPELAGOES: THE USSR STATED THAT THEY

HAD AGREED TO A 40 MILE WIDTH OF SEA LANE AND THAT THEY THOUGHT THE INDONESIANS WOULD NOT GO

ABOVE THE FIGURE. THE US INDICATED THAT OUR MINIMUM

IS 60 MILES (THE SOVIETS INDICATED THAT OUR FINAL

FIGURE WOULD BE 50). THE SOVIETS IN PRIVATE COUNSUL-

TATIONS WITH THE INDONESIANS HAD AGREED TO DROP THE

REFERENCE " IN THE NORMAL MODE " AND INSERTING IN ITS

PLACE " UNIMPEDED TRANSIT ". THE US EXPLAINED THAT

"IN THE NORMAL MODE" PROTECTED OUR SUBMERGED TRANSIT

POTION AND THAT THEIR AMENDMENT PREJUDICED SUBMERGED

TRANSIT. THE US FURTHER STATED THAT THE INDONESIANS

BELIEVE THAT THE DELETION OF " IN THE NORMAL MODE "

WOULD CAST DOUBT ON SUBMERGED TRANSIT. IN A SEPARATE

SUBSEQUENT MEETING THE US AND USSR AGREED ON AMENDMENTS

TO THE ARCHIPELAGO ARTICLES, WHICH MAINTAIN " NORMAL

MODE " IN RSNT. SIGNIFICANTLY, THE SOVIETS REFUSED TO

AGREE TO TRILATERAL MEETINGS (US, USSR AND

INCONESIA) AND INDICATED THAT AGREEMENT COULD BE

REACHED ON A BILATERAL BASIS.

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